

Enforcement Escalation Guide

The Enforcement Response Guide (ERG) is to be used by authorized City staff to address violations of the Industrial Pretreatment Program (IPP). This guide is not a specific City Ordinance, but is meant as guidance to provide consistency in the City's enforcement actions in regards to industrial and commercial users.

The level of response to be taken will depend on the severity of the violation and previous number of similar violations committed. If there is a failure to resolve a violation at one level of enforcement it will result in a higher level of enforcement activity. The enforcement actions below are listed in order of increasing severity. No enforcement procedure is contingent on completion of a less stringent prior step. Appeals by industrial and commercial users may be made in accordance with the EPA approved IPP.

Enforcement Response(s)	Person Taking Action
Documented Phone Call (Verbal Warning)	SE, WS, PS, PT
Notice of Violation (Letter)	SE, PS
Demand Sampling &/or Inspection	SE, PS, PT
Meeting on Compliance Issues	SE, WS, PS
Permit Modification(s)	SE, PS
Compliance Schedule(s)	SE, PS
Administrative Order(s)	SE, PS
Referral of violation(s) to EPA/NHDES	SE, PS
Show Cause Order	SE, PS, DPW
Consent Order	SE, PS, DPW, CS
Assessment of Fines	DPW, CS
Revocation of Permit	DPW, CS
Disconnection of Sewer Service	DPW, CS
Civil Litigation	DPW, CS
Criminal Prosecution	DPW, CS

Sanitary Engineer = SE Wastewater Superintendent = WS Pretreatment Supervisor = PS
 Pretreatment Technician = PT Director of Public Works = DPW City Solicitor = CS

Time Frame for Responses

Time frames for notifications of violations and responses from industries shall not exceed the times set in the following schedule:

Severity of Violation	Time for City Response	Time for Industry Response
All Violation(s)	Document within 5 days of receiving the information	30 days for resampling results upon notification
Minor Violation(s)	Notify industry within 15 days of violation detection	Respond within 20 days of notification
Moderate Violation(s)	Notify industry within 7 days of violation detection	Within 10 days of notification respond to City
Significant Violation(s)	Immediate for Emergencies and 3 days for non emergency actions	Respond immediately, written follow up in 3 days detailing actions taken.

There are three levels of violations – minor, moderate and significant. The following examples categorize many anticipated types of violations into one of these categories. When a violation occurs, this table will be reviewed to

determine the general level of the violation. Then an appropriate response can be chosen from the alternatives on Page 1 of this ERG (Time Frame for Responses).

Sampling, Monitoring & Reporting Violations

Noncompliance	Minor	Moderate	Significant
Failure to sample Sampling required in permits not done. Missed parameters as specified in permit. Sampled at incorrect location. Improper sample collection technique.	First violation; Isolated: Infrequent	Repeated violation; Did not follow through on verbal or written instructions as issued by Control Authority	Frequent: Uncorrected 30 days after due date as specified in permit. Failed to resample within 30 days of notice of exceeding permit limit maximum concentration. Damage due to non sampling
Failure to Monitor Inoperable flow monitoring or sampling equipment. Other inoperable effluent monitoring equipment. Violations of toxic organic management plans. Failure to maintain required documentation	First or infrequent occurrence; No known or suspected discharge violations	Repeat occurrence; Results in permit effluent discharge violations without known environmental effects	Pattern of occurrences; direct or indirect cause of SNC discharge
Reporting Violations Failure to notify of slug discharge, late reports (permit applications, categorical reports, responses required by enforcement actions. Computational errors in reports. Reports improperly signed. Failure to notify of changed discharge. Failure to monitor all pollutants required. Failure to report results from additional monitoring.	First offense; No harm; Report less than 5 days late	Repeated offenses after notice by City; Report 5 to 30 days late	Failed to respond to lower levels of enforcement actions; Spill or changed discharge that resulted in harm; Report more than 30 days late
Reporting False Information False information supplied on permit application, monitoring reports, during inspections, etc.	Unintentional error with no known harm	Caused by inadequate investigation or other inappropriate response	Knowingly fails to disclose information regarding damaging discharges

Other Violations

Noncompliance	Minor	Moderate	Significant
Compliance Schedules Failed to Initiate engineering contracts, submit plans, or purchase and install equipment by the dates listed in a compliance schedule. Pretreatment facilities not in full operational compliance on final completion date.	Missed milestone by less than one week; No effect on reaching final compliance date anticipated; No environmental or POTW harm	Missed milestone by less than 30 days; Missed milestone by more than 30 days (good cause shown for delay)	Missed milestone by more than 30 days (no good cause for delay); Harm to the POTW or environment results; Recurring violation
Failure to Install Monitoring Equipment Water meters, effluent flow meters, pH meters, chart recorders, etc.	Delay of less than 30 days; Effluent violations no occurring	Delay of more than 30 days (effluent violations not occurring)	Delay of more than 30 days (effluent violations occurring); Failure to comply with previous enforcement actions
Improper Operation and Maintenance Failure to properly operate and maintain pretreatment or monitoring facilities.	First or infrequent occurrence; No known or anticipated effects; Isolated or infrequent violation	Repeat occurrence; no harm to environment	Repeated failure to correct; Contributes to or causes pass-through, known environmental or POTW damage

Violations of Discharge Conditions

Noncompliance	Minor	Moderate	Significant
Dilution Wastestream(s) are diluted in lieu of treatment	First or infrequent occurrence; No known or anticipated effects; Isolated or infrequent violation	Repeat occurrence	Repeated failure to correct
Exceeding Discharge Limits Discharge occurs in violation of permit limitations. Unauthorized discharge of un-permitted pollutant.	First or infrequent occurrence; No known or anticipated effects; Isolated or infrequent violation	Repeat violation but will not result in determination of SNC	Contributes to or causes pass-through or interference, known environmental or POTW damage; Violations tat are SNC; Evidence of intent or negligence
Discharges of Slug Load (Reported) Discharged a flow of pollutants five (5) times the average 24 hour concentration for a duration of 15 minutes or spills which may adversely affect the collection system and/or performance of the POTW.	First or infrequent occurrence; no known or anticipated effects; Isolated or infrequent violation	Repeat violation but will not result in determination of SNC	Contributes to or causes pass-through or interference, known environmental or POTW damage; Violations that are SNC; Evidence of intent or negligence

Unauthorized Discharges Industrial discharge occurring with an expired, revoked or un-issued permit.	Unintentional error with no known harm to POTW or environment; Not submitted within 10 days of due date	Failure of Class 3 IU to apply within 30 days of notification of requirement	Failure of Class 1 or 2 IU to apply within 30 days of notification of requirement; Harm to POTW or environment; Failure to respond to lower level actions
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Violations Found During Field Investigations & Inspections

Noncompliance	Minor	Moderate	Significant
Failure to report additional monitoring Inspection finds additional files	First occurrence; No effluent violations	First occurrence with effluent violation; Repeat occurrence without effluent violations	Recurring
Violations of Analytical Procedures Improper sampling location; Unrepresentative collection procedure; Use of non-approved analytical procedure(s).	First violation; not knowingly made; No known damage	First violation; knowingly made; Resulting in an effluent violation	Evidence of intent resulting in false representation of effluent characteristics
Violations of permit Conditions Violations of or inadequate spill prevention plans. Required records not available for minimum of three years.	Records more than one year old missing (and no enforcement actions are pending); Potential spill situation	Failure to resolve at lower enforcement level	Any record missing during periods of enforcement activity; Failed to respond to lower level enforcement actions regarding spill conditions
Refusal of Entry Unacceptable delay required for entry (allowing changes in physical conditions or altering of records to occur); Entry denied; Entry after monitoring or inspection underway; refusal of access to some areas; copies of records denied.	Delays on first inspection visit; Delay limited to establishment of legal authority; First occurrence	Repeat occurrence with no known or suspected problems	Continued refusal of entry; Refusal of entry when evidence of illegal discharge exists
Inadequate Record keeping Records not maintained for three years; Records missing; Inadequate chain-of-custody records; Equipment calibration & maintenance records not kept.	First offense (no evidence of intent)	Repeated after noticed by City	Failed to respond to lower level enforcement actions; Evidence required for enforcement action missing

Range of Enforcement Responses; **MINOR** = Verbal Notification up to Meetings with POTW staff, **MODERATE** = Letter of Violation up to Show Cause Order, **SIGNIFICANT** = Newspaper Publication up to Criminal Prosecution